



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

IRVING COPPELL SURGICAL HOSPITAL  
400 W INTERSTATE 635  
IRVING TX 75063

#### **Respondent Name**

Indemnity Insurance Co of North

#### **Carrier's Austin Representative Box**

Box Number 15

#### **MFDR Tracking Number**

M4-12-2626-01

#### **MFDR Date Received**

April 12, 2012

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "...not paid according to Medicare TDI guidelines."

**Amount in Dispute:** \$1,837.08

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "...charges were processed correctly per the state OPPS."

**Response Submitted by:** Gallagher Bassett Services, Inc. 6504 International Parkway, Plano, TX 75093

### **SUMMARY OF FINDINGS**

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
July 5, 2011	Outpatient Hospital Services	\$1,837.08	\$606.48

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated August 18, 2011

- 97 – THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED.
- BL – TO AVOID DUPLICATE BILL DENIAL FOR ALL RECON/ADJUSTMENTS/ADDITIONAL PYMENT REQUESTS, SUBMIT A COPY OF THE EOR OR CLEAR NOTATION THAT A RE

- 59 – PROCESSED BASED ON MULTIPLE OR CONCURRENT PROCEDURE RULES.
- W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT
- 19 – NOT A WORK RELATED INJURY/ILLNESS AND THUS NOT THE LIABILITY OF THE WORKERS COMPENSATION CARRIER
- 45 – CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED/LEGISLATED FEE ARRANGEMENT.

Explanation of benefits dated October 10, 2011

- 16 – CLAIM/SERVICE LACKS INFORMATION WHICH IS NEEDED FOR ADJUDICATION
- 59 – PROCESSED BASED ON MULTIPLE OR CONCURRENT PROCEDURE RULES
- 94 – PROCESSED IN EXCESS OF CHARGES
- 97 – THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED.
- 19 – NOT A WORK RELATED INJURY/ILLNESS AND THUS NOT THE LIABILITY OF THE WORKERS' COMPENSATION CARRIER.
- BL – THIS BILL IS A RECONSIDERATION OF A PREVIOUSLY REVIEWED BILL ALLOWANCE AMOUNTS DO NOT REFLECT PREVIOUS PAYMENTS.
- 45 – CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE ON CONTRACTED/LEGISLATED FEE ARRANGEMENT.
- W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT

### **Issues**

1. Are there any unresolved liability issues?
2. Are the disputed services subject to a contractual agreement between the parties to this dispute?
3. What is the applicable rule for determining reimbursement for the disputed services?
4. What is the recommended payment amount for the services in dispute?
5. Is the requestor entitled to reimbursement?

### **Findings**

1. 28 Texas Administrative Code §133.305(a)(4) defines a medical fee dispute as a dispute that involves an amount of payment for non-network health care rendered to an injured employee (employee) for health care determined to be medically necessary and appropriate for treatment of that employee's compensable injury. 28 Texas Administrative Code §133.305(b) requires that "If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and 408.021." Review of the submitted documentation finds that there are unresolved issues of compensability for the same service(s) for which there is a medical fee dispute. No documentation was submitted to support that the issue(s) of compensability for 25076 have been resolved prior to the filing of the request for medical fee dispute resolution. The requestor has failed to support 25706 is eligible for review pursuant to 28 Texas Administrative Code §133.307.
2. According to the explanation of benefits dated August 18 and October 10, 2011, the carrier reduced the medical bill using code 45 "CHARGE EXCEED FEE SCHEDULE MAX ALLOWABLE OR CONTRACTED/LEGISLATED FEE ARRANGEMENT." No documentation was found to support that a contract exists between the parties, nor can the division establish what type of contract - Informal or Voluntary pursuant to Texas Labor Code §413.011 (d-1) through (d-3), or Health care Certified Network Texas Insurance Code §1305 - was allegedly accessed. The division further notes that Texas Labor Code §413.011 (d-1) through (d-3) regarding informal and voluntary networks for the type of service in this dispute expired on December 31, 2010. The division concludes that reduction code 45 is not supported, for that reason; the services in dispute will be reviewed pursuant to the applicable division fee guidelines.
3. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests

separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables is not applicable.

4. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
- Procedure code 25105 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. These services are classified under APC 0050, which, per OPPS Addendum A, has a payment rate of \$2,220.83. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,332.50. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of \$1,294.66. The non-labor related portion is 40% of the APC rate or \$888.33. The sum of the labor and non-labor related amounts is \$2,182.99. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line is \$2,182.99. This amount multiplied by 200% yields a MAR of \$4,365.98.
  - Procedure code 25295 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0049, which, per OPPS Addendum A, has a payment rate of \$1,582.38. This amount multiplied by 60% yields an unadjusted labor-related amount of \$949.43. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of \$922.47. The non-labor related portion is 40% of the APC rate or \$632.95. The sum of the labor and non-labor related amounts is \$1,555.42. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$777.71. This amount multiplied by 200% yields a MAR of \$1,555.42.
  - Procedure code 25295 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0049, which, per OPPS Addendum A, has a payment rate of \$1,582.38. This amount multiplied by 60% yields an unadjusted labor-related amount of \$949.43. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of \$922.47. The non-labor related portion is 40% of the APC rate or \$632.95. The sum of the labor and non-labor related amounts is \$1,555.42. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$777.71. This amount multiplied by 200% yields a MAR of \$1,555.42.
  - Procedure code 25295 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0049, which, per OPPS Addendum A, has a payment rate of \$1,582.38. This amount multiplied by 60% yields an unadjusted labor-related amount of \$949.43. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of \$922.47. The non-labor related portion is 40% of the APC rate or \$632.95. The sum of the labor and non-labor related amounts is \$1,555.42. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$777.71. This amount multiplied by 200% yields a MAR of \$1,555.42.
  - Procedure code 25295 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0049, which, per OPPS Addendum A, has a payment rate of \$1,582.38. This amount multiplied by 60% yields an unadjusted labor-related amount of \$949.43. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of \$922.47. The non-labor related portion is 40% of the APC rate or \$632.95. The sum of the labor and non-labor related amounts is \$1,555.42. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$777.71. This amount multiplied by 200% yields a MAR of \$1,555.42.

- Procedure code 25295 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0049, which, per OPPS Addendum A, has a payment rate of \$1,582.38. This amount multiplied by 60% yields an unadjusted labor-related amount of \$949.43. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of \$922.47. The non-labor related portion is 40% of the APC rate or \$632.95. The sum of the labor and non-labor related amounts is \$1,555.42. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$777.71. This amount multiplied by 200% yields a MAR of \$1,555.42.
- Procedure code 82962 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$3.29. 125% of this amount is \$4.11
- Procedure code 84132 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$6.47. 125% of this amount is \$8.09
- Procedure code 84295 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$6.77. 125% of this amount is \$8.46
- Procedure code 85018 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$3.33. 125% of this amount is \$4.16
- Procedure code 36415 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$3.00. 125% of this amount is \$3.75
- Procedure code 82435 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$6.47. 125% of this amount is \$8.09
- Procedure code 84525 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$5.29. 125% of this amount is \$6.61
- Procedure code 81025 has a status indicator of A, which denotes services paid under a fee schedule or

payment system other than OPSS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPSS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$8.90. 125% of this amount is \$11.12

- Procedure code 81002 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPSS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPSS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$3.60. 125% of this amount is \$4.50
- Procedure code 36415 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPSS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPSS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$3.00. 125% of this amount is \$3.75
- Procedure code 73130 has a status indicator of X, which denotes ancillary services paid under OPSS with separate APC payment. These services are classified under APC 0260, which, per OPSS Addendum A, has a payment rate of \$45.04. This amount multiplied by 60% yields an unadjusted labor-related amount of \$27.02. This amount multiplied by the annual wage index for this facility of 0.9716 yields an adjusted labor-related amount of \$26.25. The non-labor related portion is 40% of the APC rate or \$18.02. The sum of the labor and non-labor related amounts is \$44.27. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line is \$44.27. This amount multiplied by 200% yields a MAR of \$88.54.

The total allowable reimbursement for the services in dispute is \$12,294.26. This amount less the amount previously paid by the insurance carrier of \$11,687.78 leaves an amount due to the requestor of \$606.48. This amount is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$606.48.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$606.48, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
June 3, 2013  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**